

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

ROBERT FIREMAN and ANN RAIDER,

Plaintiffs,

v.

Civil Action No. 05-11740-MLW

NEWS AMERICA MARKETING IN-STORE,  
INC.,

Defendant.

**DECLARATION OF ALFRED A. McBEAN, JR.**

1. I am currently the Vice President of Windows Technology for News America Marketing, Inc. ("NAM"). I work within the Information Services ("IS") Department at NAM.

2. I make this declaration based on my personal knowledge, a review of NAM records, and a review of NAM computer systems. This declaration responds to assertions in the Plaintiffs' Motion to Compel.

**Knowledge of Backup Systems**

3. I have detailed knowledge of the backup systems for the Windows environment at NAM. I am also generally familiar with the backup systems for non-Windows applications at NAM.

4. I began working at NAM in June, 2000. From June 2000 until 2001, I was Senior Technologist of Windows Technology. From 2001 until 2005, I held the position of Director of Windows Technology. I have held my current position of Vice President of Windows Technology since 2005.

5. In each of these positions, I was responsible in part for the Windows environment at NAM. The Windows environment at NAM includes the creation, modification, saving, and backing up of Word documents, Excel documents, Email (including attachments), and Power Point documents.

6. These Windows environment files are saved to sets of backup tapes. The tapes are created on certain backup cycles, from servers located in various NAM offices, and are retained for differing periods of time, depending on the nature of the information. I refer to the my deposition transcript, dated March 27, 2007, for further information on the backup systems, and related systems.

#### **Use of Backup Tapes**

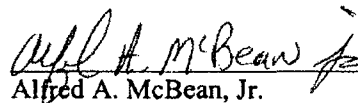
7. Upon a user's specific request, and with a sufficient business justification, the NAM IS Department will restore and search a recent backup tape if the user (a) identifies the location of the file that is the target of the search; (b) supplies the date of the email that is the target of the search; or (c) provides other specific information to allow a targeted search.

8. As a general rule, the IS Department does not restore recent backup tapes if the user requests a broad search -- such as a search using keywords -- as this process is time-consuming and resource-intensive.

9. In using the term "recent" -- in the phrase "recent backup tape" above -- I mean a tape created within the past four to five weeks.

10. It would be uncommon for the IS Department to restore a backup tape that is older than four to five weeks. The only tapes that are older than four or five weeks are the year-end, full system backups, and the daily backup tapes for the Exchange servers.

Signed under the penalties of perjury this 4 day of June, 2007.

  
Alfred A. McBean, Jr.

# 4572165\_v3

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on this 4<sup>th</sup> day of June, 2007.

/s/ Gordon P. Katz  
Gordon P. Katz